IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 26TH MARCH 2007 / 5TH CHAITHRA 1929

WP(C).No. 8439 of 2007(D)

PETITIONER:

O.A.JOSE,
OLICKAL HOUSE, MONIPPALLY, KOTTAYAM DISTRICT.

BY ADV. SRI.MANUEL KACHIRAMATTAM
SRI.P.PAULOCHAN ANTONY

RESPONDENTS:

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1. THE KOTTAYAM DISTRICT CO-OPERATIVE BANK LTD., HEAD OFFICE, KOTTAYAM, REPRESENTED BY ITS GENERAL MANAGER.

2. THE BRANCH MANAGER, KOTTAYAM DISTRICT CO-OPERATIVE BANK LTD., UZHAVOOR BRANCH, KOTTAYAM DISTRICT.

3. THE DISTRICT COLLECTOR, KOTTAYAM.

R1 AND R2 BY ADV. SRI. T.R. HARIKUMAR
R3 BY G.P. SMT. SMITHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26/03/2007, ALONG WITH RP 322 OF 2007 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

(WPC 8439 OF 2007)

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE PHOTOCOPY OF THE NOTICE DATED 16.1.2006 ISSUED BY THE DISTRICT LEGAL SERVICES AUTHORITY, KOTTAYAM.

EXT.P2 TRUE PHOTOCOPY OF THE DEMAND NOTICE DATED 3.5.2006 ISSUED BY THE FIRST RESPONDENT.

EXT.P3 TRUE PHOTOCOPY OF THE JUDGMENT DATED 15.1.2007 IN WPC 1394 OF 2007 OF THIS HONOURABLE COURT.

EXT.P4 TRUE PHOTOCOPY OF THE RECEIPT NO. 31 DATED 13.2.2007 ISSUED BY THE 2ND RESPONDENT.

EXT.P5 TRUE PHOTOCOPY OF THE RECEIPT DATED 13.2.2007 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.

EXT.P6 TRUE PHOTOCOPY OF THE REPRESENTATION DATED 13.2.2007 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

RESPONDENTS' EXHIBITS: NIL

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 8439 OF 2007 &
R.P.322/07 IN WPC 1394/07

Dated this the 26th day of March, 2007

JUDGMENT

Heard counsel for the common petitioner in the WPC and RP and standing counsel appearing for the first respondent-Bank. The challenge in the WPC is against Bank's claim for advertisement charges, which represent the cost of advertisement under the Securitisation Act. In view of the inordinate delay taken by the petitioner in getting orders from this Court, petitioner is liable to pay cost of advertisement. Therefore the challenge in the WPC against recovery of cost for publication is rejected and WPC is dismissed.

2. Review Petition is for liberalising the terms of payment. Standing counsel for the Bank submitted that if petitioner settles liability within a reasonable time, Bank will grant OTS benefits, which will give substantial reduction to the petitioner. If petitioner wants any reduction, it is for the petitioner to approach the Bank and offer payment within a reasonable time, and in that event, Bank will grant

OTS benefit to the petitioner. However, if the petitioner does not clear liability under OTS scheme, then petitioner is entitled to discharge liability in instalments as stated in the judgment and as modified hereunder. Since petitioner has paid first instalment in February 2007 and in view of the temporary hardship expressed by the petitioner, petitioner is granted time till 30.4.2007 to pay second instalment. Balance will be paid on or before last date of every month succeeding thereafter without default failing which consequences as stated in the judgment will follow . First respondent-Bank will give a statement of accounts to the petitioner. R.P. is disposed of as above.

(C.N.RAMACHANDRAN NAIR)
Judge